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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,795	03/06/2006	Ronald J. Craswell	115710-149427	4331

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EXAMINER	
ROBINSON, GRETA LEE	
ART UNIT	**PAPER NUMBER**
2169	
MAIL DATE	**DELIVERY MODE**
03/09/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/538,795	CRASWELL ET AL.	
	Examiner	Art Unit	
	Greta L. Robinson	2169	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 November 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3 and 5-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3 and 5-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-3 and 5-16 are pending in the present application.

2. Claims 1, 3, 5, 9, 10-12 and 14-16 have been amended. Claims 4 and 17-19 have status cancelled.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-3, 5-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dutta et al. US Patent Application Publication No. 2002/0156921 A1 in view of Andersen US Patent 6,865,655 B1 and Ramasubramani et al. US Patent 6,516,316 B1.

Regarding claim 1, **Dutta et al.** teaches *a wireless communication apparatus* [note: Figures 1, 3, and 5 ; paragraph 0017 a cellular wireless network 112] having

a processor [note: paragraph 0033 processors 202 and 204]; and

a *memory* comprising executable instructions which, upon execution, are operative to cause the wireless communication apparatus to [note: paragraph 0033]:

facilitate *login*, by a user of the wireless communication apparatus, *to a user account* at a remote backup server, the user account being accessible from the wireless communication apparatus as well as another computing device of the user [note: paragraph 0007 wireless device pushes request to client via proxy/gateway server; paragraph 0017-0020 IP network system requests IP address based on uniform resource locator and connects via proxy server 106 or another connection; also note firewall configuration; gateway 114 paragraph 0022; paragraph 0023 wireless application protocol (WAP); Figure 4];

facilitate designation, by the user, of data on the wireless computing apparatus to be *backed up* by the backup server [note: paragraph 0043; Figure 5 requesting backup];

generate a *hash value* for said designated data [note: application identified by SL paragraph 0045-0046];

communicate a request to the backup server to back up the designated data, including said hash value, to enable said backup server to determine whether said data is already available to said backup server [note: Figure 7];

only after said backup server determines that said data was not already earlier made available to said backup server, *send said* data to said backup server the backup server being configured to store the data, to associate the data with said user account and to provide the data to the another computing device [note: paragraph 0022; paragraph 0023-0024 wireless application protocol (WAP) defines the protocol; paragraph 0027 special protocols; paragraph 0031 Data Backup Server 170 provides backup for wireless devices such as PDAs; paragraph 0046 sends data to backup server; backup may be predefined paragraph 0043].

Although Dutta et al. teaches the invention substantially as cited above, they do not explicitly teach backup only after said backup server determines that said data was not already earlier made available and that the identifier is a hash value; however they do teach setting predefined conditions for backup.

Andersen teaches determining if there is a data portion for backup and a mechanism for transferring a contents for backup if the system does not already have a copy. Anderson teaches recognition of the contents through a hash value or other unique identifier that identifies the contents to be evaluated [see: abstract; column 16 lines 48-57 "the identification 194 may be, for example, a hash value, checksum or other unique identifier"]. It would have been obvious to one of ordinary skill at the time of the invention to have combined Andersen with Dutta et al. because identifiers provide

access or indexing ability to data for processing, and special identifiers would provide a more enhanced or customized approach to identifying data for storage.

Dutta and Anderson do not *explicitly* teach a login; however Dutta does teach a proxy/gateway as part of wireless device or PC access to the system. Ramasubramani et al. specifically teaches that the *gateway* is used to compare access privileges of users through use of a *password* (i.e. login) in which it is compared against registered user accounts to determine grant permissions [see: column 9 lines 15-54]. It would have been obvious to one of ordinary skill at the time of the invention to have combined the cited references because logins and/or passwords are well know modes of secured access to systems and encompass proxy/gateway access privilege.

5. Regarding claims 2 and 3, wherein the apparatus further comprises a transceiver … data in compressed form to said backup server…. [note: Dutta et al. Figures 1 and 2; paragraphs 0022 and 0027].

6. Regarding claim 5, "wherein said hash value is generated using a cryptographic hashing algorithm" [note: Andersen column16 lines 48-57 hash value to uniquely identify contents for backup storage area].

7. Regarding claim 6, "wherein said cryptographic hashing algorithm is selected from the group of cryptographic hashing algorithms … [note: Andersen teaches unique identifiers column 16 lines 48-57; while Dutta teaches special protocols may be defined

see paragraphs 0023-0024, 0027 and 0031]. It would have been obvious to one of ordinary skill at the time of the invention to have provided a group selection since Dutta teaches special protocols may be implemented this would provide greater flexibility to the end user in terms of tools for locating data.

8. Regarding claim 7, “wherein said hash value is a cryptographic checksum” [note: Andersen column 16 lines 48-57 "the identification 194 may be, for example, a hash value, checksum or other unique identifier”].

9. Regarding claim 8, “wherein the hash value is wirelessly communicated via a communication medium selected from a group consisting of : RF signals, optical signals, audio modulated signals and electromagnetic signals” [note: Dutta et al. teaches wireless transfer of information see abstract; Figure 5; and paragraph 0043].

10. Regarding claim 9 and 10, wherein the programming instructions, upon execution, are operative to cause the wireless communication apparatus to facilitate a user in designing a data type not to backup from the wireless communication apparatus …. a data location …. [note: Dutta et al. paragraph 0043 push a content type for backup].

11. The limitations of claims 12-15 and 19 have been addressed above; therefore they are rejected under the same rational.

12. Claims 11 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dutta et al. US Patent Application Publication No. 2002/0156921 A1 in view of Merriam US Patent 6,609,138 B1.

Regarding claim 11, Dutta et al. teaches "facilitate a user of the wireless communications apparatus logging into a user account of the user on a backup server … request a list of backups … selecting a previous backup from among the list of backups associated with a user account of a backup server … determine whether the requested previous backups are not on the wireless devise … only on determining that a selected previous backups are currently not on the wireless communications and are compatible with the wireless communication apparatus, request selected previous backups … [note: Dutta et al. Figures 7 and 8; paragraph 0043 data backed up may be, phone number list, address list, calendar, appointment schedules, or any other types of data; paragraph 0048; paragraph 0054 selected data may be backed up; paragraph 0055 reloading backed up data].

Although Dutta et al. teaches the invention substantially as cited above, they do not explicitly teach requesting the selected previous backups only on determining that the selected previous backups are not on the wireless device; however they do teach predefined conditions for backup.

Merriam teaches defining rules for backup [see: abstract; Figure 3 (332) rules for archive storage; column 5 lines 1-10]. It would have been obvious to one of ordinary skill at the time of the invention to have combined Merriam with Dutta et al. because the

ability to define the protocol for backup provides a more enhanced or customized approach to the storage process.

13. The limitations of claim 16 parallel claim 11, therefore it is rejected based on the same rationale.

Response to Arguments

14. Applicant's arguments filed November 2, 2009 have been fully considered but they are not persuasive.

In the response Applicant argued the following:

ARGUMENT: Applicant argues Dutta et al. does not teach the protocol for backup as cited in the amended claims (i.e. backup only after the backup server determines said data is not already made available to said backup device). Also, Applicant states Dutta does not associate an account with the backup process.

RESPONSE: Dutta et al. provides for the limitation facilitate proxy access (or privileged access) and variation in backup protocol [note: paragraph 0007 wireless device pushes request to client via proxy/gateway server; paragraph 0017-0020 IP network system requests IP address based on uniform resource locator and connects via proxy server 106 or another connection; also note firewall configuration; gateway 114 paragraph 0022; paragraph 0023 wireless application protocol (WAP); and Figure 4; paragraph

0048 proxy/gateway 504 receives the data from the client 506 and translates the data into a protocol suitable for data backup server 502; paragraph 0047 the system will not push data for backup if system is not available or busy]. Dutta teaches special records (i.e. accounts) associated backups [see: paragraph 0028]. Newly cited reference Merriam applied to independent claims 11 and 16 teaches defining rules for backup.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greta L. Robinson whose telephone number is (571)272-4118. The examiner can normally be reached on M-F 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Mahmoudi can be reached on (571)272-4078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Greta L. Robinson/
Primary Examiner, Art Unit 2169
March 8, 2010